

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN E. CUNNINGHAM,

Plaintiff,

v.

JO ANNE BARNHART
Commissioner of Social Security,

Defendant.



FILED

SEP 27 2007

ORDER
06-CV-167A


The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On August 31, 2007, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion for judgment on the pleadings be denied, that plaintiff's cross-motion for judgment on the pleadings be granted to the extent that it seeks to vacate the defendant's determination, and that the case be remanded to the defendant for further proceedings consistent with the Report and Recommendation.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the Court: (1) denies defendant's motion for judgment on the pleadings, (2) grants plaintiff's cross-motion for judgment on the pleadings to the extent that it seeks to vacate the defendant's determination, and (3) remands the case to the defendant for further

proceedings consistent with the Report and Recommendation and this Order. The Clerk of Court shall take all steps necessary to close the case.

IT IS SO ORDERED.


HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: September 25, 2007